

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5085 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and  
MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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GSRTC

Versus

RATANLAL GOPALDAS SEJWANI

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Appearance:

MR HEMANT S SHAH for Petitioner  
MR BG JANI for Respondent No.1 to 4.

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CORAM : MR.JUSTICE Y.B.BHATT and  
MR.JUSTICE A.K.TRIVEDI

Date of decision: 01/12/1999

ORAL JUDGEMENT

Appeal admitted. Mr. B.G. Jani appears for the  
respondents nos.1 to 4 original claimants and waives  
service. On a joint request appeal is taken up for final  
hearing today.

1. We have heard the learned Counsel for the respective parties and perused such evidence to which our attention has been drawn.

2. As a result of hearing and discussion a consensus has been arrived at between the learned Counsel for the respective parties in the presence of the respondent no.1 who is the father of the deceased.

2.1 Learned Counsel for the appellant submitted that although there are many grounds of challenge to the impugned judgment and award he would concentrate on only one aspect, namely - the award of Rs.50,000/- (Rupees fifty thousand) under a specific head and for a specific reason that the claimants have lost their only son.

3. Having perused the judgment from this aspect we find that although the award has been passed under other heads, the only dispute is that the specific amount of Rs.50,000/- has been awarded " towards losing their only son ". We have no doubt that an award under this head is not justified in law. The suggestion of the learned Counsel for the appellant that interests of justice would be served by reducing the award amount by Rs.50,000/- appears to be reasonable without going into the merits of other contentions.

4. Learned Counsel for the respondents after consulting the first respondent who is present in Court has left this question entirely upto us. On the facts and circumstances of the case and in the premises aforesaid, we are satisfied that the impugned judgment and award is excessive by the aforesaid sum of Rs.50,000/- and the same requires to be modified accordingly. Consequently, we hold and direct that the impugned judgment and award are modified only to the extent that the aggregate amount of compensation payable to the claimant shall be Rs.2,30,000/- (Rupees two lakhs thirty thousand), with running interest at 12 per cent per annum from the date of the application till realisation/deposit in Court. Furthermore, there shall be an order of proportionate costs throughout.

5. This appeal is therefore partly allowed. Decree accordingly.

6. It is clarified that in case the appellant made a deposit before the Tribunal of an amount which is in excess of the present decree, the applicant may apply for the necessary refund which the Tribunal shall decide after due computation.

7. It is further directed that the Tribunal shall calculate the difference between the amount due and payable to the claimants under the present decree of this Court and the amount already deposited by the appellants and permitted to be withdrawn and invested by the Tribunal. In respect of this difference, the Tribunal shall pass necessary orders as to investment/disbursement in the same proportion as the Tribunal has permitted in the case of the initial amount.

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